

IN THE MATTER OF MATTHEW JONES,
A person (not being a solicitor) employed or remunerated by a solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A G Ground (in the chair)
Mr S N Jones
Mr M G Taylor CBE

Date of Hearing: 31st March 2005

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by Gerald Malcolm Lynch solicitor of Cumberland House, 24-28 Baxter Avenue, Southend on Sea, SS2 6HZ on 11th January 2005 that an Order be made by the Tribunal directing that as from a date to be specified in such Order no solicitor, registered foreign lawyer or incorporated solicitors practice should, except in accordance with permission in writing granted by the Law Society of such a period and subject to such conditions as the Society might think fit to specify in the permission, employ or remunerate in connection with his/her practice as a solicitor, registered European lawyer or member/director or shareholder of an incorporated solicitors' practice Matthew Jones of St Thomas, Swansea, a person who was or had been a clerk to a solicitor or that such other Order might be made as the Tribunal should think right.

The allegations were:-

- (a) That the Respondent misled his client Mr P in relation to the progress of his application for appeal against a sentence of imprisonment;

- (b) That the Respondent misled his employers in relation to the lodgement or otherwise of appeal papers for and on behalf of Mr P;
- (c) That the Respondent forged a Court document to facilitate the deceit in allegations (a) and (b).

On 15th February 2005 the Applicant made a supplementary statement in which he made a further allegation, namely that the Respondent faced criminal prosecution and on 19th March 2004 upon his own confession was convicted of doing an act tending and intended to pervert the course of public justice. He was sentenced to six months' imprisonment suspended for two years on 11th May 2004.

The application was heard at the Court Room, Gate House, 3rd Floor, 1 Farringdon Street, London EC4M 7NS when Gerald Malcolm Lynch appeared as the Applicant and the Respondent did not appear and was not represented.

The evidence before the Tribunal included a Certificate of Conviction, an emailed letter of 4th February 2005 written by the Respondent to the Tribunal and a letter addressed to the Applicant by the Respondent dated 3rd February 2005.

At the conclusion of the hearing the Tribunal made the following Order:-

The Tribunal orders that as from 31st day of March 2005 no solicitor, Registered European Lawyer or incorporated solicitor's practice shall, except in accordance with permission in writing granted by the Law Society for such period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor, Registered European Lawyer or member, director or shareowner of an incorporated solicitor's practice Matthew Jones of St Thomas, Swansea, a person who is or was a clerk to a solicitor and the Tribunal further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,400.00

The facts are set out in paragraphs 1 to 3 hereunder:-

1. At all relevant times, the Respondent was a clerk in the employ of Messrs Goldstones Solicitors of Swansea. He was dismissed from that employment on 22nd April 2002.
2. Mr P was represented by Goldstones in relation to two separate criminal matters heard at Swansea Crown Court. After a contested trial, he was on 19th January 2000 sentenced to a total of five years four months imprisonment. The Respondent had conduct of the affairs of the client and received instructions to appeal against sentence and conviction. Counsel was instructed and he prepared and forwarded the appeal papers to Goldstones. It was the Respondent's responsibility to lodge the appeal papers with the Crown Court.
3. The Respondent told Mr P that his application for leave to appeal had been refused and produced a document to support that assertion. That document was a forgery prepared by the Respondent. It purported to be a form of Judge's Order issued in the Court of Appeal Criminal Division dated 11th October 2000 signed by the Hon Mr Justice Moreland and refused leave to appeal. It was not true that leave to appeal had

been refused. Mr P had ascertained the true position when he took his case to the Criminal Cases Review Commission. With new legal representation Mr P obtained leave to appeal out of time.

The Submissions of the Applicant

4. The Respondent contacted the Applicant to draw his attention to the fact that on 19th March 2004 upon his own confession he was convicted of doing an act tending and intended to pervert the course of public justice. A certified copy of the Certificate of Conviction was before the Tribunal. On 11th May 2004, the Respondent was sentenced to six months imprisonment suspended for two years. The criminal indictment had been based upon the facts relating to Mr P's case and the forged refusal to grant leave to appeal. It was right that the future employment of the Respondent in the legal profession should be subject to control.

The Submissions of the Respondent

5. The Respondent confirmed he would not attend the hearing as he was unable to afford the cost.
6. The Respondent raised the question of delay in the disciplinary proceedings. They had been dealt with three years after his conduct had been discovered and four years after the offence had taken place, two years after his employers had been dealt with and one year after his conviction. If he were such a danger to the public that they needed protection then the Order pursuant to Section 43 should have been made three years ago. The Respondent had not tried for any position involving solicitors or court work, neither would he wish to do so.
7. The Respondent considered that his employers at the material time operated a "blame culture". If a problem arose everyone would look to blame someone rather than try to sort out the problem. He found it an intimidating and stressful environment.
8. Mr P had contacted the Respondent on a number of occasions. The Respondent had looked at his file and could find no evidence of any appeal being lodged. He had spoken with the barrister who had told him that the Court would not then consider an appeal. The Respondent knew that he would be blamed and would probably be dismissed. He panicked and lied to the client.
9. The Respondent had constantly been in fear that the matter would come to light as he had just purchased a house with his fiancée and was in the middle of paying for their wedding.
10. When the Respondent had been told that an appointment had been made in 2001 for him to see Mr P in prison one evening to provide him with the appeal documents the Respondent was in a blind panic and in real fear of losing his job. He stupidly changed the name on a refusal document so it appeared as if Mr P's appeal had been disallowed. He handed the document to Mr P knowing that the matter would come

back to haunt him in the future but he did not know what else to do. He hoped that it would give him time to sort out the problem.

11. The Respondent had been dismissed for gross misconduct from his employers and he had to admit to his wife, her family and colleagues what he had done and that ruined the most important day of his life.
12. It was 17 months later that the Police told him that they wished to interview him about that incident. He fully admitted that offence in an interview in September 2003 but it was not until January 2004 that he was charged with the offence of attempting to pervert the course of justice.
13. The Respondent accepted that what he had done was wrong and he had lived with the shame for a very long time. He had been punished repeatedly for it. The Respondent had faced considerable adverse publicity which had been distressing not only for him but for his wife and his parents. The Respondent would never act in a similar way again.
14. The Respondent hoped that he would not be punished by a further costs order and that he would be allowed to try again to rebuild his life and be allowed the chance to rehabilitate himself.
15. The Respondent could not afford representation. He had explained how the events occurred and told the truth since discovery. He made a mistake and more than paid for it.
16. The Respondent had a promising career with the pensions service but he lost his job when he was convicted, even though the offence predated his employment. He was continuing to pay the costs order by instalments and found it a struggle.
17. The Respondent and his wife and young child were struggling to meet the cost of necessities.

The Findings of the Tribunal

18. The Tribunal found the allegations to have been substantiated, indeed they were not contested.
19. It was right in the light of the Respondent's dishonest and unacceptable behaviour that an Order be made restricting his future employment within the solicitors' profession.
20. The Tribunal noted the very considerable delay which had taken place prior to the application being made by the Law Society and acknowledged that so long after the event this had put extra pressure upon the Respondent.
21. The Tribunal gave the Respondent credit for reporting his conviction to the Applicant, and for his remorse and contrition.

22. Whilst not unsympathetic to the Respondent's difficult financial position and the fact that he has already been required to pay costs following his conviction, the Tribunal concluded that it would be right as this application was founded upon the Respondent's misconduct that he should pay the costs of and incidental to the application and enquiry.
23. The Applicant told the Tribunal that his costs would be £1,400. The Tribunal concluded that this level of cost was entirely reasonable and in order to save time and further expense ordered the Respondent to pay that fixed sum.

Dated this 30th day of April 2005

On behalf of the Tribunal

A G Ground
Chairman